

§ 90.903

owned and controlled by a nonroad engine manufacturer and used in a manner not involving lease or sale by itself or in a vehicle employed from year to year in the ordinary course of business for product development, production method assessment, and market promotion purposes.

Testing exemption means an exemption granted under § 90.1004(b) for the purpose of research, investigations, studies, demonstrations or training, but not including national security.

§ 90.903 Exclusions, application of section 216 (10) and (11) of the Act.

(a) For the purpose of determining the applicability of section 216(10) of the Act, an internal combustion engine (including the fuel system) that is not used in a motor vehicle is deemed a nonroad engine, if it meets the definition in subpart A of this part. For the purpose of determining the applicability of section 216(11) of the Act, a vehicle powered by a nonroad engine is deemed a nonroad vehicle, if it meets the definition in subpart A of this part.

(b) EPA will maintain a list of models of nonroad engines and models of nonroad vehicles that have been determined to be excluded because they are used solely for competition. This list will be available to the public and may be obtained by writing to the following address: Group Manager, Engine Compliance Programs Group, Engine Programs and Compliance Division (6403J) Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(c) Upon written request with supporting documentation, EPA will make written determinations as to whether certain engines are or are not nonroad engines. Engines that are determined not to be nonroad engines are excluded from regulations under this part.

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§ 90.904 Who may request an exemption.

(a) Any person may request a testing exemption under § 90.905.

(b) Any nonroad engine manufacturer may request a national security exemption under § 90.908.

(c) For nonroad engine manufacturers, nonroad engines manufactured for

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export purposes are exempt without application, subject to the provisions of § 90.909.

(d) For eligible manufacturers, as determined by § 90.906, manufacturer-owned nonroad engines are exempt without application, subject to the provisions of § 90.906.

(e) For any person, display nonroad engines are exempt without application, subject to the provisions of § 90.907.

§ 90.905 Testing exemption.

(a) Any person requesting a testing exemption must demonstrate the following:

(1) That the proposed test program has a purpose which constitutes an appropriate basis for an exemption in accordance with § 90.1004(b), and in accordance with subsection (b) of this section;

(2) That the proposed test program necessitates the granting of an exemption, in accordance with subsection (c) of this section;

(3) That the proposed test program exhibits reasonableness in scope, in accordance with subsection (d) of this section; and

(4) That the proposed test program exhibits a degree of control consonant with the purpose of the program and EPA's monitoring requirements, in accordance with subsection (e) of this section.

(b) With respect to the purpose of the proposed test program, an appropriate purpose would be research, investigations, studies, demonstrations, or training, but not national security. A concise statement of purpose is a required item of information.

(c) With respect to the necessity that an exemption be granted, necessity arises from an inability to achieve the stated purpose in a practicable manner without performing or causing to be performed one or more of the prohibited acts under § 90.1003. In appropriate circumstances, time constraints may be a sufficient basis for necessity, but the cost of certification alone, in the absence of extraordinary circumstances, is not a basis for necessity.

(d) With respect to reasonableness, a test program must exhibit a duration